

W-W-W-X

OGC HAS REVIEWED.

28 April 1958

MEMORANDUM FOR: Assistant Director for Operations

SUBJECT: The Engagement of Agency Employees as
Independent-Contractor Translators for

STATSPEC

REFERENCES: (a) Memorandum from Chief, FDD, OO to Chief, CPD, OP, dated 2 August 1957, subject--Personal Services Contracts with Government Employees.
(b) Memorandum from Chief, CPD, OP to Chief, FDD, OO, dated 21 August 1957.
(c) Memorandum from Assistant Director of Operations to Director of Personnel, dated 30 January 1958, Same Subject.

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1. FDD has established that the use of Agency employees in the translating portion of the [redacted] program is desirable and necessary. They have further requested that such utilization be on an Independent Contractor rather than an overtime basis.

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2. The Comptroller General while not declaring such utilization illegal, has often expressed concern therewith. Two extracts are quoted for illustrative purposes:

"it has been repeatedly held that the United States should not where the needs of the Government reasonably can be otherwise supplied, contract with its officers or employees for the reason that such contracts are against public policy and would afford grounds for complaint as to alleged favoritism, fraud, etc., in the conduct of the public business."

(Comptroller General 14-404)

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" . . . and this office often has expressed the view that such contracts should not be made except for the most cogent reasons."

(Comptroller General 21-707)

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3. However, based upon the facts that (a) the situation set forth is totally unlike that normally associated with the payment of overtime compensation; (b) FID can maintain effective control of such use; and (c) the Office of General Counsel has interposed no legal objection thereto, the Office of Personnel concurs in the use of Agency employees as Independent Contractors under [redacted] contracts, under the following terms and conditions:

- a. They must be treated on an arms-length basis;
- b. They must be valid independent-contractors;
- c. Their service must be limited to translation;
- d. Remuneration must be based on the number of English words translated in conformance with the prevailing rate paid other [redacted] translators for similar translation, and;
- e. The translation rendered must be separate and distinct from the individuals responsibility to this Agency as an employee.

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4. Your attention is drawn to [redacted] which levies certain requirements upon employees prior to their acceptance of outside employment.

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FOR THE DIRECTOR OF PERSONNEL:

[redacted]
Chief, Contract Personnel
Division

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CONCURRENCES:

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Office of General Counsel

5/19/58

Date

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* Office of the Comptroller

29 April 1958

Date

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*The reservations expressed in our memorandum of 24 March 1958 are still-applicable, but we agree that the arrangements described can be implemented.

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